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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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8 HAROLD D. DYSON, ) No. C 07-4955 MJJ (PR)  
9 Petitioner, ) **ORDER TO SHOW**  
10 v. ) **CAUSE**  
11 BEN CURRY, Warden, )  
12 Respondent. )  
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14 Petitioner, a California prisoner, filed this pro se petition for a writ of habeas corpus  
15 pursuant to 28 U.S.C. § 2254, challenging the decision by the California Board of Prison  
16 Terms ("Board") finding him unsuitable for parole. He has paid the filing fee.

17 **BACKGROUND**

18 In 1984, in Alameda County Superior Court, petitioner pled guilty to charges of  
19 second degree murder, and was sentenced to a term of 15 years to life in state prison. In  
20 2006, the California Board of Prison Terms (the "Board") found him unsuitable for parole for  
21 the eighth time. He challenged this decision unsuccessfully in habeas petitions filed at all  
22 three levels of the California courts.

23 **DISCUSSION**

24 A. Standard of Review

25 This Court may entertain a petition for writ of habeas corpus "in behalf of a person in  
26 custody pursuant to the judgment of a State court only on the ground that he is in custody in  
27 violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a);  
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1 Rose v. Hodges, 423 U.S. 19, 21 (1975). A district court shall "award the writ or issue an  
 2 order directing the respondent to show cause why the writ should not be granted, unless it  
 3 appears from the application that the applicant or person detained is not entitled thereto." 28  
 4 U.S.C. § 2243.

5 B. Legal Claims

6 Petitioner claims: (1) the Board violated his right to due process because the decision  
 7 to deny him parole was not based on at least "some" evidence; (2) the Board's decision was  
 8 based on a "no parole policy" and a "systemic bias" against granting parole, which violated  
 9 his right to due process. Liberally construed, these claims are cognizable.

10 **CONCLUSION**

11 For the foregoing reasons, the Court orders as follows:

12 1. The Clerk of the Court shall serve by certified mail a copy of this order, and the  
 13 amended petition and all attachments thereto, upon respondent and respondent's attorney, the  
 14 Attorney General for the State of California. The Clerk shall also serve a copy of this order  
 15 on petitioner.

16 2. Respondent shall file with the Court and serve on petitioner, within 90 days of  
 17 the date this order is filed, an answer conforming in all respects to Rule 5 of the Rules  
 18 Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be  
 19 granted based on the cognizable claims described above. Respondent shall file with the  
 20 answer and serve on petitioner a copy of all portions of the state trial record that have been  
 21 transcribed previously and that are relevant to a determination of the issues presented by the  
 22 petition.

23 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with  
 24 the Court and serving it on respondent within 30 days of his receipt of the answer.

25 3. Respondent may, within 90 days of the date this order is filed, file a motion to  
 26 dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee  
 27 Notes to Rule 4 of the Rules Governing Section 2254 Cases. If respondent files such a  
 28 motion, petitioner shall file with the Court and serve on respondent an opposition or

1 statement of non-opposition within 30 days of receipt of the motion, and respondent shall file  
2 with the Court and serve on petitioner a reply within 15 days of receipt of any opposition.


3 4. Petitioner is reminded that all communications with the Court must be served  
4 on respondent by mailing a true copy of the document to respondent's counsel.

5 5. It is petitioner's responsibility to prosecute this case. Petitioner must keep the  
6 Court and respondent informed of any change of address and must comply with the Court's  
7 orders in a timely fashion. Failure to do so may result in the dismissal of this action for  
8 failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

9 6. Upon a showing of good cause, requests for a reasonable extension of time will  
10 be granted as long as they are filed on or before the deadline which they seek to extend.

11 IT IS SO ORDERED.

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13 DATED: 10/24/07

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15 MARTIN J. JENKINS  
16 United States District Judge  
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